

SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE

AND

THE SAN JOSE POLICE OFFICERS' ASSOCIATION

and

THE SAN JOSE FIRE FIGHTERS, IAFF LOCAL 230

The City of San Jose ("City") and the San Jose Police Officers' Association ("POA") and the San Jose Fire Fighters, IAFF Local 230 ("IAFF") agree to the following. The parties agree that they have met and conferred in good faith, and that this agreement fulfills the City's *Seal Beach* bargaining obligations related to this ballot measure and fulfills the terms of Addendum#1 to the July 15, 2015, Alternative Pension Reform Settlement Framework.

- (A) The parties agree to the following ballot measure language to be placed on the November 2016 ballot:**

Pension Modification

The Citizens of the City of San Jose do hereby add the following sections to Article XV of the Charter, superseding Article XV-A. These sections shall prevail over conflicting or inconsistent provisions in Charter Article XV. Notwithstanding any other provisions of this Article, the City Council may, by ordinance, and subject to the provisions of California Government Code Section 3500 et seq., provide for the conformance of any retirement plan or plans established and maintained by the City of San José to Section 415 of the United States Internal Revenue Code or other applicable provisions of the laws of the United States or the State of California.

1. Reservation of Voter Authority

- a. *There shall be no enhancements to defined benefit pension benefits and/or defined benefit retiree healthcare benefits in effect as of January 1, 2017, without voter approval. An enhancement is any change to defined benefit pension benefits that increases the total aggregate cost of the benefits in terms of normal cost and unfunded liability as determined by the Board's actuary, or any change to defined benefit retiree healthcare benefits that increases the total aggregate cost of the benefits in terms of normal cost and unfunded liability as determined by the Board's actuary. This does not include other changes which do not directly modify specific pension benefits, including but not limited to any subsequent compensation increases which may increase an employee's final compensation or any assumption changes as determined by the Board.*

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- b. If the State Legislature or the voters of the State of California enact a requirement of voter approval for the continuation of defined pension benefits, the voters of the City of San Jose hereby approve the continuation of current pension benefits for employees.*

(1) By passage of this Measure, the voters hereby approve and authorize the continuation of the following benefits:

- i. For Tier 1 employees in the Federated City Employees' Retirement System as defined by the Municipal Code, including but not limited to, the normal age of retirement shall be 55, with an accrual rate of 2.5% per year to a maximum of 75% of the final compensation, and the Cost-of-Living-Adjustment shall be 3.0% per year.*
- ii. For Tier 1 employees in the Police & Fire Department Retirement Plan as defined by the Municipal Code, including but not limited to, the normal age of retirement shall be age 50 with twenty-five years of service or age 55 with twenty years of service, with a maximum benefit of 90% of final compensation, and the Cost-of-Living-Adjustment shall be 3.0% per year.*
- iii. For Tier 2 employees in the Federated City Employees' Retirement System who were originally hired into City service on or after September 30, 2012, as further defined by the Municipal Code, including but not limited to, the normal age of retirement shall be 62, with an accrual rate of 2.0% per year to a maximum of 70% of the final compensation, and the Cost-of-Living-Adjustment shall be based on years of service and CPI, but no greater than 2.0% at maximum years of service.*
- iv. For Tier 2 employees in the Police & Fire Department Retirement Plan who were originally hired into City service as a sworn Police employee on or after August 4, 2013, or who were originally hired into City service as a sworn Fire employee on or after January 2, 2015, as further defined by the Municipal Code, including but not limited to, the normal age of retirement shall be 57 with an accrual rate that shall be based on years of service and shall range from at least 2.4% per year of service to no greater than 3.4% at the maximum years of service, with a maximum pension benefit of 80% of the final compensation, and the Cost-of-Living-Adjustment shall be based on CPI, but no greater than 2.0% per year.*

2. Actuarial Soundness (for both pension and retiree healthcare plans)

- a. In recognition of the interests of the taxpayers and the responsibilities to the plan beneficiaries, all pension and retiree healthcare plans shall be operated in conformance with Article XVI, Section 17 of the California Constitution. This includes but is not limited to:*

(1) All plans and their trustees shall assure prompt delivery of benefits and related services to participants and their beneficiaries;

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- (2) All plans shall be subject to an annual actuarial analysis that is publicly disclosed in order to assure the plan has sufficient assets;*
- (3) All plan trustees shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system;*
- (4) All plan trustees shall diversify the investments of the system so as to minimize the risk of loss and maximize the rate of return, unless under the circumstances it is not prudent to do so;*
- (5) Determine contribution rates on a stated contribution policy, developed by the retirement system boards; and*
- (6) When investing the assets of the plans, the objective of all plan trustees shall be to maximize the rate of return without undue risk of loss while having proper regard to the funding objectives of the plans and the volatility of the plans' contributions as a percentage of payroll.*

3. No Retroactive Defined Benefit Pension or Defined Benefit Retiree Healthcare Enhancements

- a. Any enhancement to a member's defined benefit retirement formula or defined benefit retirement benefit or defined benefit retiree healthcare benefit adopted on or after January 1, 2017, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.*
- b. If a change to a member's retirement membership classification or a change in employment results in an enhancement in the retirement formula or retirement benefit or retiree healthcare benefit applicable to that member, except as otherwise provided under the plans as of [effective date of ordinance], that enhancement shall apply only to service performed on or after the operative date of the change and shall not be applied to any service performed prior to the operative date of the change.*
- c. For purposes of this section, "operative date" would be the date that any resolution or ordinance implementing the enhancement to a member's retirement formula or retirement benefit adopted by the City Council becomes effective.*

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- (B) In the event no agreement on ballot measure language is reached with the bargaining units representing employees in the Federated City Employees' Retirement System, the parties agree that this ballot measure language shall be placed on the November 2016 ballot for employees in the Police and Fire Department Retirement Plan.
- (C) The POA and IAFF agree to endorse the November 2016 ballot measure.

This Side Letter Agreement shall become effective when signed by all the parties below.

For Employer:

 3/30/16

Norberto Dueñas Date
City Manager

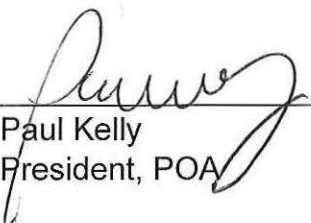
 3/30/16

Jennifer Schembri Date
Director of Employee Relations

 3/30/16

Charles Sakai Date
Labor Consultant


For the Unions:

 3/24/16

Paul Kelly Date
President, POA

 3/17/16


Sean Kaldor Date
President, IAFF

 3/17/16

James Gonzalez Date
Vice President, POA

 3/30/16

Christopher Platten Date
Legal Counsel, IAFF

 3/30/16

Gregg Adam Date
Legal Counsel, POA